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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/650,299	08/29/2000	Charles Bradley Forsythe	P02014US0	9113

26271 7590 12/30/2003
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EXAMINER

ELISCA, PIERRE E

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 12/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/650,299

Applicant(s)
Forsythe et al.

Examiner
Pierre E. Elisca

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 9/16/2003
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 21 6) ☐ Other:

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DETAILED ACTION
RESPONSE TO AMENDMENT

1. This Office action is in response to Applicant's amendment, filed on 09/16/2003.
2. Claims 1-16 are pending.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller and BuyMedia.com (hereinafter referred to as BuyMedia) in view of Goodman (U.S. Pat. No. 6,173,271).

As per claim 1, Miller substantially discloses a method of selecting and purchasing media advertising (see., col 1, lines 6-10, Figs 3A-3M) comprising the steps of:

an advertiser accessing a system and providing information relating to buying criteria and customer data in order to select and purchase media advertising (see., col 11, lines 22-27);

the server system receiving the information, processing the information and creating at least one media advertising rate request (see., step 124);

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the system manipulating the processed rate request to create a media advertising schedule (see., Figs 3C-3E);

transmitting the media advertising schedule to the advertiser (see., col 17, lines 28-33);

the advertiser receiving the schedule, making a media advertising purchase decision and transmitting the purchase decision to the system (this step would have been obvious to complete the media buying process); and

the system transmitting the media advertising purchase decision to the at least one media outlet for reserving the purchased advertising (this step would have been obvious to complete the media buying process).

Miller does not teach transmitting the rate request to a media outlet, but rather attains rate information prior to the transaction and stores that rate information in memory. However, BuyMedia discloses a system for facilitating buying advertising spots from various media wherein in the rate request is transmitted to the media outlet, the rate request responses is then transmitted via BuyMedia.com to the advertiser for a decision. Accordingly, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of Miller such that the media outlet can be contacted with a rate request at the time of request rather than have that information already available as the information will be more up to date, allowing the media outlet to keep price changes current and hence not require the media outlet to honor, perhaps, an old price that is no longer profitable.

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Miller and BuyMedia fail to explicitly disclose Applicant's newly added limitation wherein said media buying process to have a reduced duration. Goodman discloses an advertisement media 106 that includes agreement upon air date and time, duration of commercial (see., abstract, col 5, lines 47-64). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of Miller and BuyMedia such that the media outlet can be contacted with a rate request at the time of request rather than have that information already available as the information will be more up to date, allowing the media outlet to keep price changes current and hence not require the media outlet to honor, perhaps, an old price that is no longer profitable. One of ordinary skill in the art would have realized that by including the limitation detailed above as taught by Goodman would provide the enhanced capability of charging users based on time duration.

As per claims 2, 11 and 16, Miller discloses that the media advertising for selecting and purchasing is selected from a group consisting of radio, television, cable, newspaper and outdoor media (see., col 1, lines 6-10).

As per claims 3 and 12, Miller discloses that the information relating to the buying criteria or buying guidelines is selected from a group consisting of advertising campaign type, media choice, customer profile, scheduling preferences, target demographics and allocated budget (see., col 6, lines 54- col 7, lines 36, col 11, lines 22-26).

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As per claim 4 and 13, Miller discloses that the information relating to customer data is selected from a group consisting of company name, physical address, telephone/facsimile numbers, e-mail address, contact name and credit information (see., col 7, lines 11-33).

As per claim 5, Miller discloses the step of processing of the information received by the advertiser includes feeding the information into media selection software for determining effective media choices and for ranking the media choices (see., col 7, lines 37-51, fig 7).

As per claim 6, Miller discloses that the at least one rate request created includes information selected from the group consisting of flight period, dayparts, days of the week, excluded programming, excluded stations, category of advertiser, respond by date information, locations, and comments (see., col 6, lines 17-27).

As per claim 7, Miller discloses that the processing of the rate request by the media outlet includes filing out a rate submission from on a Web page (see., Figs 4-16).

As per claims 8 and 9, Miller discloses that the manipulation of the rate request by the server system includes creating a shell schedule based on the buying criteria, interfacing the shell schedule with audience rating and qualitative data (see., col 6, lines 17-27), creating the schedule based on selected

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parameters (Fig 7), converting the schedule to a simplified format, applying a rating system to the schedule, and creating numerical ratings and efficiency categories for the schedule (Fig 7).

RESPONSE TO ARGUMENTS

5. Applicant's arguments filed 09/16/2003 have been fully considered but they are moot in view of new ground (s) of rejection.

Conclusion

6. Any inquiry concerning this communication from the examiner should be directed to Pierre Eddy Elisca at (703) 305-3987. The examiner can normally be reached on Tuesday to Friday from 6:30AM. to 5:00PM.

If any attempt to reach the examiner by telephone is unsuccessful, the examiner's supervisor, James Trammell can be reached on (703) 305-9768.

Any response to this action should be mailed to:

Commissioner of patents and Trademarks

Washington, D.C. 20231


The Official Fax Number For TC-3600 is:

(703) 305-7687

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Pierre Eddy Elisca

Patent Examiner

December 02, 2003